

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOSHUA C. GOSNEY,

Plaintiff,

vs.

SHERIFF STEVE KEANE, CAPTAIN
THOMPSON, and CAPTAIN
DANIELS,

Defendants.

NO. CV-11-5036-JPH

**ORDER ADOPTING REPORT AND
RECOMMENDATION AND DISMISSING
COMPLAINT**

1915 (g)

Magistrate Judge Hutton filed a Report and Recommendation on June 30, 2011, recommending Mr. Gosney's civil rights complaint be dismissed with prejudice as Mr. Gosney had failed to present any factual allegations from which the Court could infer named Defendants deprived him of a constitutionally protected right as required to state a claim under 42 U.S.C. § 1983. *Leer v. Murphy*, 844 F.2d 628, 632-33 (9th Cir. 1988). A copy of the Report and Recommendation, sent to Mr. Gosney at the Benton County Correction Center, was returned with the notations, "Not in Custody, Return to Sender." Although advised that he must provide written notification of his change of address, Mr. Gosney has not kept the Court apprised of his current address and has filed nothing further in this action.

There being no objections, the Court **ADOPTS** the Report and
ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING COMPLAINT -- 1

1 Recommendation. **IT IS ORDERED** the complaint is **DISMISSED WITH PREJUDICE**
2 for failure to state a claim upon which relief may be granted. 28 U.S.C.
3 §§ 1915(e)(2) and 1915A(b)(1).

4 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner
5 who brings three or more civil actions or appeals which are dismissed as
6 frivolous or for failure to state a claim will be precluded from
7 bringing any other civil action or appeal *in forma pauperis* "unless the
8 prisoner is under imminent danger of serious physical injury." 28
9 U.S.C. § 1915(g). Mr. Gosney is advised to read the new statutory
10 provisions under 28 U.S.C. § 1915. This dismissal of Mr. Gosney's
11 complaint may count as one of the three dismissals allowed by 28 U.S.C.
12 § 1915(g) and may adversely affect his ability to file future claims.

13 **IT IS SO ORDERED.** The District Court Executive is directed to
14 enter this Order, enter judgment, forward copies to Plaintiff at his
15 last known address, and close the file. The District Court Executive is
16 further directed to forward a copy of this Order to the Office of the
17 Attorney General of Washington, Criminal Justice Division. The Court
18 certifies any appeal of this dismissal would not be taken in good faith.

19 **DATED** this 26th day of July 2011.

20
21 s/Edward F. Shea
22 EDWARD F. SHEA
23 UNITED STATES DISTRICT JUDGE

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